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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,105	03/30/2004	O. Lynn Barnett	LB-101	5550
37053	7590	08/11/2005	EXAMINER	
D.A. STAUFFER PATENT SERVICES LLC 1006 MONTFORD ROAD CLEVELAND HTS., OH 44121-2016			CRANE, DANIEL C	
			ART UNIT	PAPER NUMBER
			3725	

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/813,105	BARNETT, O. LYNN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Daniel C. Crane	3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19, 21-24, 31-36 and 38-54 is/are rejected.
- 7) ☒ Claim(s) 20, 25-30 and 37 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/1/2004</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **BASIS FOR REJECTIONS**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

## **REJECTION OF CLAIMS ON FORMAL MATTERS**

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-18 and 38-54 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With reference to claims 1 and 38, failure to provide antecedence for the "front" of the sheet bending brake renders the subject matter indefinite. Defining the "front" as being that part of the bending brake having the bending anvil would overcome the indefiniteness.

## **REJECTION OF CLAIMS OVER PRIOR ART**

Claims 1, 2, 12-16, 38, 39 and 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Palmer (6,082,164) in view of Naylor (4,700,937). The basic claimed front gauge is shown by Palmer in that a "front gauge" 50 is provided below the workpiece 25 (see Figures 5-8) and acts to accurately gauge the position of the workpiece within the sheet bending brake 10. No "scale" is provided. However, scales are widely used in front gauges within the

bending art as evidenced by Naylor where a scale (see column 3, lines 47-60) can be marked on the sides 24 of the gauge 34 so as to accurately position the workpiece within the bending brake. It would have been obvious to the skilled artisan to have modified Palmer's gauge 50 by providing an adjustable gauge having a scale using the concepts taught by Naylor for the above noted motivation. Removable scales are well known in the art so as to replace worn scales or to change from one marking to another. Naylor shows a stop at 56 and 22. The exact location of the scale would have been a matter of preference dictated by clear sight of the scale.

Claims 1, 5-8, 38, 43-47 and 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ridgway (4,658,624) in view of Naylor (4,700,937). Ridgway illustrates the basic claimed front gauge at 6 or 61 relative to a pivotable third member 3 and first and second members 822, 821, respectively. No "scale" is shown. However, scales are widely used in front gauges within the bending art as evidenced by Naylor where a scale (see column 3, lines 47-60) can be marked on the sides 24 of the gauge 34 so as to accurately position the workpiece within the bending brake. It would have been obvious to the skilled artisan to have modified Ridgway's gauge 50 by providing an adjustable gauge having a scale using the concepts taught by Naylor for the above noted motivation. As to claim 6, see Figure 6-12 of Naylor where the square tube 32, 40 is coupled to the frame portion by set screws (unlabeled, Figure 11). Pin 56 and holes 22 act as the stop within the support bar 20 of Naylor.

Claims 19, 21-24 and 31-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hugert (3,726,120) in view of Naylor (4,700,937). Hugert illustrates the claimed features

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where the gauge 122 is mounted on the third member 5 relative to the first and second members 2, 6, respectively. No "scale" is shown. However, scales are widely used in front gauges within the bending art as evidenced by Naylor where a scale (see column 3, lines 47-60) can be marked on the sides 24 of the gauge 34 so as to accurately position the workpiece within the bending brake. It would have been obvious to the skilled artisan to have modified Hugert's gauge 122 by providing an adjustable gauge having a scale using the concepts taught by Naylor for the above noted motivation. The bar 20 in Naylor can act as a workpiece support. Removable scales are known in the art for the purpose of replacing the scale with other indicators. Hand made markings are also known in the mechanical arts particularly where positioning is between marks on a scale. The operator in the mechanical arts is aware of this common marking in the industry. For example, it is known to take a measurement and mark the scale with pencil. The stop face extends over and under the scale since Naylor's stop mechanism extends completely around the support bar 20, the scale being on the side of the support bar.

#### **INDICATION OF ALLOWABLE SUBJECT MATTER**

Claims 3, 4, 9-11, 17, 18, 40-42, 48-50 and 54 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 20, 25-30 and 37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### **PRIOR ART CITED BY EXAMINER**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

### **RESPONSE BY APPLICANT(S)**

Applicant(s) response to be fully responsive and to provide for a clear record must specifically point out how the language of the claims patentably distinguishes them from the references, both those references applied in the objections and rejections and those references cited in view of the state of the art in accordance with 37 CFR 1.111 (a), (b) and (c).

### **INQUIRIES**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner D. Crane whose telephone number is (571) 272-4516. The examiner's office hours are 6:30AM-5:00PM, Tuesday through Friday. The examiner's supervisor, Mr. Derris Banks, can be reached at (571) 272-4419.

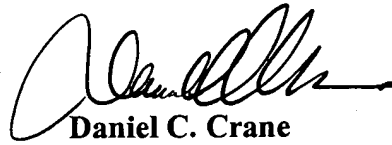
Documents related to the instant application may be submitted by facsimile transmission at all times to Fax number (571) 273-8300. Applicant(s) is(are) reminded to clearly mark any transmission as "DRAFT" if it is not to be considered as an official response. The Examiner's Fax number is (571) 273-4516.

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DCCrane  
August 4, 2005

A handwritten signature in black ink, appearing to read 'DCCrane', with a stylized, cursive script.

**Daniel C. Crane**  
Primary Patent Examiner  
Group Art Unit 3725